

MONTANA LEGISLATIVE HISTORY

Chapter 247 1999

Bill H _____ S 124

Original bill & history ☒ c

H. Committee on Human Services

S. Committee on Judiciary

Hearing Date(s) 3/5 _____ c

Hearing Date(s) 1/12 _____ c

3/10 _____ c

1/15 _____ c

_____ c

_____ c

_____ c

_____ c

Date Out _____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

HISTORY AND FINAL STATUS 1999

	Transmitted to House		
2/16	Referred to Transportation		
3/08	Hearing		
3/16	Committee Executive Action--Bill Concurred as Amended	17	0
3/16	Committee Report--Bill Concurred as Amended		
3/26	2nd Reading Concurred	99	0
3/27	3rd Reading Concurred	97	1
	Returned to Senate with Amendments		
3/30	2nd Reading House Amendments Concurred	50	0
3/31	3rd Reading Passed as Amended by House	49	1
4/01	Sent to Enrolling		
4/06	Returned from Enrolling		
4/08	Signed by President		
4/09	Signed by Speaker		
4/09	Transmitted to Governor		
4/12	Signed by Governor		
4/14	Chapter Number Assigned		
	Chapter Number 292		
	Effective Date: 7/01/1999 - All Sections		

SB 123 Introduced by Crismore

LC0686 Drafter: Everts

Establish Yearly Septic Disposal License Fees for Persons Engaged in the Business of Cleaning Cesspools, Septic Tanks, or Privies or Disposing of Septage;...

By Request of Department of Environmental Quality

12/23	Introduced		
1/04	1st Reading		
1/04	Referred to Business and Industry		
1/14	Hearing		
2/09	Hearing		
2/12	Committee Executive Action--Bill Passed as Amended	7	0
2/13	Committee Report--Bill Passed as Amended		
2/16	2nd Reading Passed	48	0
2/17	3rd Reading Passed	43	3
	Transmitted to House		
2/18	Referred to Business and Labor		
3/11	Hearing		
3/11	Tabled in Committee		
	Died in Standing Committee		

SB 124 Introduced by T. Beck

LC0235 Drafter: Fox

Generally Revise Laws Relating to Mental Health;...

By Request of Department of Public Health and Human Services

12/23	Introduced		
1/04	1st Reading		
1/04	Referred to Judiciary		
1/12	Hearing		
1/15	Committee Executive Action--Bill Passed as Amended	6	0
1/16	Committee Report--Bill Passed as Amended		
1/20	2nd Reading Passed	50	0

SENATE BILLS AND RESOLUTIONS

93

1/21	3rd Reading Passed	49	0
	Transmitted to House		
2/16	Referred to Human Services		
3/05	Hearing		
3/11	Committee Executive Action--Bill Concurred as Amended	16	0
3/11	Committee Report--Bill Concurred as Amended		
3/20	2nd Reading Concurred	86	11
3/22	3rd Reading Concurred	89	11
	Returned to Senate with Amendments		
3/25	2nd Reading House Amendments Concurred	50	0
3/26	3rd Reading Passed as Amended by House	49	0
3/26	Sent to Enrolling		
3/29	Returned from Enrolling		
3/29	Signed by President		
3/29	Signed by Speaker		
3/30	Transmitted to Governor		
4/05	Signed by Governor		
4/06	Chapter Number Assigned		
	Chapter Number 247		
	Effective Date: 4/05/1999 - All Sections		

SB 125 Introduced by Crismore

LC0687 Drafter: Everts

Establish a New Septic Disposal License Late Renewal Fee for a Person Engaged in the Business of Cleaning Cesspools, Septic Tanks, or Privies or Disposing of Septage When the Person Has Failed to Submit a License Renewal Fee Prior to the Expiration of That Person's Current License;...

By Request of Department of Environmental Quality

12/23	Introduced		
1/04	1st Reading		
1/04	Referred to Business and Industry		
1/07	Fiscal Note Requested		
1/13	Fiscal Note Received		
1/13	Fiscal Note Signed		
1/14	Fiscal Note Printed		
1/14	Hearing		
2/09	Hearing		
2/12	Committee Executive Action--Bill Passed as Amended	7	0
2/13	Committee Report--Bill Passed as Amended		
2/16	2nd Reading Passed	48	0
2/17	3rd Reading Passed	43	4
	Transmitted to House		
2/18	Referred to Business and Labor		
3/11	Hearing		
3/11	Tabled in Committee		
	Died in Standing Committee		

SB 126 Introduced by Crismore

LC0194 Drafter: Everts

Establish Requirements for the Disposal of Septage and Requiring Licensure of Those Engaged in That Business

By Request of Department of Environmental Quality;...

SENATE BILL NO. 124

INTRODUCED BY BECK T

BY REQUEST OF THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS RELATING TO MENTAL HEALTH; DELETING THE REQUIREMENT FOR DEPARTMENT APPROVAL OF VOLUNTARY ADMISSION FORMS; PROVIDING TRANSFER PROVISIONS FOR A PERSON IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS; AMENDING TIME PROVISIONS RELATED TO NONRESIDENT COMMITMENT; CLARIFYING THE CRITERIA FOR DIVERSION FROM A DETENTION CENTER OF CERTAIN PERSONS SUFFERING FROM A MENTAL DISORDER; REQUIRING A STATEMENT OF FINANCIAL RESOURCES NEEDED FOR DISCHARGE PLANNING; DELETING THE PROVISION FOR A BIENNIAL REPORT ON DELIVERY OF SERVICES TO CHILDREN WITH EMOTIONAL DISTURBANCES; AMENDING THE FUNCTION OF THE MONTANA STATE HOSPITAL; AMENDING SECTIONS 53-21-111, 53-21-130, 53-21-134, 53-21-138, 53-21-180, 53-21-202, AND 53-21-601, MCA; REPEALING SECTION 53-21-188, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-21-111, MCA, is amended to read:

"53-21-111. Voluntary admission. (1) ~~Nothing in this~~ This part may not be construed to limit the right of ~~any~~ a person to make voluntary application for admission at any time to ~~any~~ a mental health facility or professional person. An application for admission to a mental health facility must be in writing on a form prescribed by the facility ~~and approved by the department~~. An application is not valid unless it is approved by a professional person and a copy is given to the person being voluntarily admitted. A statement of the rights of the person voluntarily applying for admission, as set out in this part, including the right to release, must be furnished to the patient within 12 hours.

(2) ~~Any~~ An applicant who wishes to voluntarily apply for admission to the state hospital shall first obtain certification from a professional person that the applicant is suffering from a mental disorder. The professional person shall then obtain confirmation from the department or the department's designee that the facilities available to the mental health region in which the applicant resides are unable to provide

adequate evaluation and treatment. The department shall adopt rules to establish a procedure whereby a professional person shall obtain the confirmation from the department or the department's designee as required in this section.

(3) An application for voluntary admission must give the facility the right to detain the applicant for no more than 5 days, excluding weekends and holidays, past the applicant's written request for release. A mental health facility may adopt rules providing for detention of the applicant for less than 5 days. The facility shall notify all applicants of the rules and post the rules as provided in 53-21-168.

(4) ~~Any~~ A person voluntarily entering or remaining in ~~any~~ a mental health facility shall enjoy all the rights secured to a person involuntarily committed to the facility."

Section 2. Section 53-21-130, MCA, is amended to read:

"53-21-130. Transfer or commitment to mental health facility from other institutions. (1) No A person who is in the custody of the department for any purpose other than treatment of severe mental illness may not be transferred or committed to a mental health facility for more than 10 days unless the transfer or commitment is effected according to the procedures set out in this part. However, proceedings for involuntary commitment may be commenced in the county of the mental health facility where the person is, in the county of the institution from which the person was transferred to the mental health facility, or in the county of the person's residence. Notice of a transfer ~~shall~~ must be given immediately to ~~any~~ the assigned counsel at the mental health facility and to the parents of minors, guardians, friends of respondent, or conservators, ~~as the case may be.~~

(2) A person who is in the custody of the department of corrections may be transferred for placement in a mental health facility for a period of up to 10 days, subject to the approval of the mental health facility. A placement in excess of 10 days must be performed according to the procedures for voluntary admission or involuntary commitment as provided in this part. Proceedings for involuntary commitment may be commenced in the county of the mental health facility where the person is placed or in the county of the correctional facility from which the person was transferred. Notice of a transfer must be given to the legal counsel for the person and to the parents of minors, guardians, friends of respondent, or conservators."

Section 3. Section 53-21-134, MCA, is amended to read:

1 **"53-21-134. Receipt of nonresident person suffering from a mental disorder pending return to**
2 **home state.** A person who is suffering from a mental disorder and in need of commitment and who is not
3 a resident of this state may be ~~received into~~ committed to the state hospital ~~for a period not to exceed~~
4 ~~30 days pending return to the state of the person's residence pursuant to this part. The state hospital~~
5 ~~shall make every effort to return the nonresident to the state of the person's residence as provided in~~
6 ~~chapter 22, part 1, of this title."~~

7
8 **Section 4. Section 53-21-138, MCA, is amended to read:**

9 **"53-21-138. Diversion of certain persons suffering from mental disorders from ~~jail~~ detention**
10 **center.** (1) The sheriff or administrator of a ~~jail~~ detention center in each county shall require screening of
11 inmates to identify persons accused of minor misdemeanor offenses who appear to be suffering from
12 mental disorders and who may require commitment, as defined in 53-21-102.

13 (2) If as a result of screening and observation it is believed that an inmate is suffering from a
14 mental disorder and ~~may requires~~ require commitment, the sheriff or administrator of the ~~jail~~ detention
15 center shall:

16 (a) request services from a crisis intervention program established by the department, as provided
17 for in 53-21-139;

18 (b) refer the inmate to the nearest community mental health center, as defined in 53-21-201; or

19 (c) transfer the inmate to a private mental health facility or hospital equipped to provide treatment
20 and care of persons who are suffering from a mental disorder and who require commitment.

21 (3) As used in this section, the term "minor misdemeanor offense" includes but is not limited to
22 a nonserious misdemeanor, such as criminal trespass to property, loitering, vagrancy, disorderly conduct,
23 and disturbing the public peace.

24 (4) A person intoxicated by drugs or alcohol who is accused of a minor misdemeanor offense may
25 be detained in a jail until the level of intoxication is reduced to the point that screening for a mental
26 disorder and the need for commitment can be performed."

27
28 **Section 5. Section 53-21-180, MCA, is amended to read:**

29 **"53-21-180. Discharge plan.** Each patient admitted as an inpatient to a mental health facility must
30 have an individualized discharge plan developed within 10 days after admission. The discharge plan must

1 be updated as necessary. Each individualized discharge plan must contain:

- 2 (1) an anticipated discharge date;
- 3 (2) criteria for discharge;
- 4 (3) identification of the facility staff member responsible for discharge planning;
- 5 (4) identification of the community-based agency or individual ~~that~~ who is assisting in arranging
- 6 postdischarge services; ~~and~~
- 7 (5) referrals for financial assistance needed by the patient upon discharge; and
- 8 (6) other information necessary to ensure an appropriate discharge and adequate postdischarge
- 9 services."

10

11 **Section 6.** Section 53-21-202, MCA, is amended to read:

12 **"53-21-202. Duties of department.** The department shall:

- 13 (1) take cognizance of matters affecting the mental health of the citizens of the state;
- 14 (2) initiate mental health care and treatment, prevention, and research as can best be
- 15 accomplished by community-centered services. The means must be ~~utilized~~ used to initiate and operate
- 16 these services in cooperation with local agencies as established under this part.
- 17 (3) collect and disseminate information relating to mental health;
- 18 (4) prepare and maintain a comprehensive plan for the development of public mental health
- 19 services in the state;
- 20 (5) receive from agencies of the United States and other state agencies, persons or groups of
- 21 persons, associations, firms, or corporations grants of money, receipts from fees, gifts, supplies,
- 22 materials, and contributions for the development of mental health services within the state;
- 23 (6) establish standards for mental health programs that receive funds from the department;
- 24 (7) evaluate performance of programs that receive funds from the department in compliance with
- 25 federal and state standards; and
- 26 (8) coordinate state and community resources to ensure comprehensive delivery of services to
- 27 children with emotional disturbances ~~and submit at least a biennial report to the governor and the~~
- 28 ~~legislature concerning the activities and recommendations of the department and service providers."~~

29

30 **Section 7.** Section 53-21-601, MCA, is amended to read:

1 **"53-21-601. Location and primary function of hospital.** (1) The facility providing mental health

2 care services at Warm Springs, Montana, is the Montana state hospital and as its primary function
3 provides care and treatment of mentally ill persons.

4 (2) (a) The Montana state hospital is a mental health facility, as defined in 53-21-102, of the
5 department of public health and human services for the care and treatment of mentally ill persons.

6 (b) The role of ~~the Warm Springs facility~~ Montana state hospital is to provide intensive inpatient
7 psychiatric services, including those services necessary for transition to community care, as ~~one~~
8 ~~component~~ components in a comprehensive continuum of publicly and privately provided programs that
9 emphasize treatment in the least restrictive environment.

10 (c) The mission of ~~the Warm Springs facility~~ Montana state hospital is to stabilize persons with
11 severe mental illness and to return them to the community as soon as possible if adequate
12 community-based support services are available.

13 (3) The department shall adopt rules to manage the state hospital patient population in a manner
14 that will ensure emergency access to services, protect public and individual safety, provide active
15 treatment, implement effective discharge planning, and ensure access to appropriate community-based
16 services."

17
18 NEW SECTION. Section 8. Repealer. Section 53-21-188, MCA, is repealed.

19
20 NEW SECTION. Section 9. Effective date. [This act] is effective on passage and approval.

21 - END -

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN LORENTS GROSFIELD, on January 12,
1999 at 9:00 A.M., in Room 325 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 60, SB 124, SB 152,
1/9/1999
Executive Action: SB 24

HEARING ON SB 124

Sponsor: SEN. TOM BECK, SD 28, Deer Lodge

Proponents: Dan Anderson, Administrator of the Addictive and
Mental Disorders Division, Department of Public
Health and Human Services
Andrea Merrill, Mental Health Association of
Montana

**Sandra Mihelish, National Alliance for the
Mentally Ill of Montana (NAMI)**

Opponents: None

Opening by Sponsor:

SEN. TOM BECK, SD 28, Deer Lodge, introduced SB124 which generally revises the laws relating to mental health. The purpose of this legislation is to update Montana's current mental health statutes so they better reflect actual practices within the system and the changes that have taken place over the years due to reorganization of state government and the welfare reform. This legislation may affect a small number of non-residents committed to the state hospital and inmates in need of mental health evaluation and treatment. It is the intent of the legislation that several influences and processes required under current law be eliminated. Mental health facilities are required to notify all county welfare departments of a patient prior to discharge for the purposes of determining whether financial assistance is required. The legislation will no longer require the department to submit a biannual report to the government. A provision of the legislation will allow inmates to be transferred from the Montana State correctional facilities to mental health facilities for up to ten days for the purposes of evaluation and treatment. The 30 day commitment for non-residents to the state hospital will be eliminated. The legislation also clarifies the screening requirement for mental health arrests for minor misdemeanors. An amendment in Section 4 clarifies that screening is required for individuals who may require commitment.

Proponents' Testimony:

Dan Anderson, Administrator of the Addictive and Mental Disorders Division, Department of Public Health and Human Services, remarked that the legislation clarifies language, removes unnecessary requirements, and helps assure that certain groups of individuals will receive the mental health services they need. He presented written testimony, EXHIBIT(1).

Andrea Merrill, Mental Health Association of Montana, provided her written testimony, EXHIBIT(2), in support of SB124.

Sandra Mihelish, National Alliance for the Mentally Ill of Montana (NAMI), submitted written testimony on behalf of Mitzi Anderson, President of NAMI, EXHIBIT(3).

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. BARTLETT remarked that the legislation repeals a section of law dealing with maintenance of indigent patients on discharge and this specifically requires the county welfare department in the county from which the patient was committed to ascertain if the discharge patient is in financial need and, if so, is required to properly care for and maintain the discharge patient under the laws relating to public assistance until the patient is able to care for himself or another provision has been made for the care of the person. She wanted to make sure that when this language is eliminated, the addition of the language on page 4, line 7, requiring the hospital to provide referrals for financial assistance will be sufficient to address this issue. **Mr.**

Anderson stated that currently a determination is made of what the patient is entitled to and his or her needs according to the programs which are available. There is no special program for Montana State Hospital discharge patients. The added language may be stronger in that the person handling the discharge is asked to individually determine what the patient needs rather than make a form letter referral to the welfare department.

SEN. JABS questioned whether there was difficulty in returning non-residents to their home state. Also, is it necessary to keep these patients for a long time. **Mr. Anderson** affirmed that there is a problem returning people to their home states which may take well beyond 30 days. Montana subscribes to the Interstate Compact on Mental Health which involves transfers between states. They want to be able to keep non-residents in the state hospital until they are ready to be discharged either somewhere in Montana or in another state.

CHAIRMAN GROSFIELD commented that Section 7 may have a fiscal impact in the program for transition. **Mr. Anderson** responded that they are not proposing any additional funds for additional services. There may be the instance where a person is to be discharged to a local nursing home but the nursing home is hesitant to treat the person due to behavior problems. They would have staff consult with the nursing home. On a limited basis, this wouldn't involve additional costs.

Closing by Sponsor:

SEN. BECK summarized that the purpose of the legislation is to try to make the system work better.

{Tape : 1; Side : A; Approx. Time Counter : 9.30}

Testimony on Senate Bill 124
Senate Judiciary Committee
January 12, 1999

Senate Bill 124 was requested by the Department of Public Health and Human Services in order to make several changes in mental health statutes. These changes clarify language, remove unnecessary requirements and help assure that certain individuals who are in need of mental health services have those services available.

Section 1 simply removes the requirement that mental health facilities receive the approval of the Department for the forms they use for voluntary admissions. The Department believes it is unnecessary for non-State mental health providers to seek Department approval for forms the facilities develop for their own use.

Section 2 would make it possible for persons in the custody of the Department of Corrections to be transferred to a mental health facility with the approval of the mental health facility. This would most often be used in transfers between Montana State Prison and Montana State Hospital for emergency psychiatric treatment. These 10 day transfers were used occasionally prior to the reorganization of state government which separated mental health and corrections into two departments. When the statutes were changed to create the DPHHS, transfers from the prison were no longer possible. We do not anticipate large number of transfers but believe when a mental health crisis exists, this kind of a short term transfers can assure prompt and appropriate services are received by a mentally ill inmate.

Section 3 makes involuntary commitments of out-of-state residents the same length as commitments of Montana residents. Current law limits commitments of out-of-state residents to 30 days and requires that the person

be transferred to his or her home state. It is not always possible to accomplish a transfer within 30 days and if the patient is not ready for discharge or willing to sign a voluntary admission, The State Hospital is faced with no legal way to hold an individual with a serious mental illness. By allowing for a 90 day commitment, if necessary, attempts can be made to transfer the patient to his/her home state, but if that fails, treatment can be completed.

Section 4 is intended not to change the law but to clarify the intent of this section. This section is intended to require that a person who is arrested for a minor misdemeanor be screened and, if the person has a significant mental illness that could require involuntary treatment, to refer that person to a treatment program. The section has been interpreted by some to require that a commitment hearing be held. By inserting the word "may" prior to "require", we hope to clarify that this is only a screening for possible serious mental illness, not a requirement that commitment be pursued in all cases.

Section 5 adds a requirement that discharge plans include referrals for financial assistance needed after discharge. This additional language replaces a section which is repealed in section 8. That section requires that the State Hospital contact the county welfare department for all Hospital discharges. The Department believes it is a much more efficient use of discharge planning staff to have them individually determine each patient's need for financial assistance and making referrals based on those determinations rather than notifying welfare department of all discharges whether the patient needs or qualifies for welfare assistance.

Section 6 removes the requirement that the Department produce a biennial report on services for emotionally disturbed children. This requirement was established when the MRM children's' mental health program was started. The MRM program was discontinued 2 years ago and the department reports on services for children as well as adults as part of its regular budget review process. We believe this additional separate report is not necessary.

Section 7 makes a slight, but potentially important, change to the state mission of Montana State Hospital. There are occasions when transition of patients from the Hospital to community based services can be aided by outreach of hospital staff to provide medication management, consultation to professional in the community, or other services which are not strictly

inpatient. We are not seeking staff for these kinds of services and do not intend to create a significant outpatient program. Our intent is to achieve through this language a small degree of flexibility in order to assist patients in successful community integration.

Testimony By Dan Anderson, Administrator, Addictive and Mental Disorders Division, Department of Public Health and Human Services.



Mental Health Association of Montana

An Affiliate of the National Mental Health Association

State Headquarters • 25 So. Ewing, Suite 200 • Helena, Montana 59601
(406) 442-4276 • Toll-Free 1-800-823-MHAM • Fax (406) 442-4986

SENATE JUDICIARY COMMITTEE

EXHIBIT NO. 2

DATE

1-12-99
58124

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Helena

President-Elect

Robert VanderAarde
Great Falls

Secretary

Robert Torres
Helena

Treasurer

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SENATE JUDICIARY COMMITTEE

JANUARY 12, 1999

TESTIMONY OF ANDREA MERRILL, EXECUTIVE DIRECTOR MENTAL HEALTH ASSOCIATION OF MONTANA

SENATE BILL NO. 124, INTRODUCED BY SENATOR TOM BECK TO GENERALLY REVISE MENTAL HEALTH LAWS

The Mental Health Association of Montana supports this legislation because the changes will help the State better provide appropriate treatment for persons with a mental illness in certain circumstances. The MHAM particularly supports the following changes:

Section 2: Allowing inmates of state correctional facilities to be transferred to mental health facilities for up to ten (10) days provides an opportunity to properly evaluate and provide acute psychiatric treatment to inmates in emergency and crisis situations.

Section 3: Eliminating the 30-day limit on care for non-residents in detention pending return to their home state is in the best interests of the person with a mental illness. Existing law does not allow for extending the commitment of these individuals, and situations may occur where the state hospital is required to discharge an individual with active psychiatric symptoms and for whom aftercare services have not been arranged. This change will allow MSH time to make proper arrangements for aftercare services with the most appropriate provider for the individual, whether in-state or out-of-state.

Section 4: It is important to clarify that screening of individuals detained on minor misdemeanors is meant to insure that people, whose inappropriate behaviors may be a symptom of mental illness, receive treatment rather than incarceration.

Section 7: This extension of the mission of MSH will go a long way in helping MSH patients successfully transition to lower levels of care in community settings. Providing for smooth transitions is not only humane, but it is an important part of the vision of the Mental Health Access Plan (MHAP) for a seamless, more cost-effective mental health system. State hospital psychiatric staff may be able to provide community mental health centers with medication follow-up, assistance with crisis programs, and coordination of services with other aftercare service providers. Much of this can be done using our state's excellent teleconferencing technology.

Section 6: The MHAM does not support the elimination of requirements that DPHHS submit a biennial report to the Governor and the Legislature concerning delivery of mental health services to children with emotional disturbances (SED children). This provision was enacted as part of the Managing Resources Montana program, prior to the managed care contract. While the MHAP contract calls for certain data collection and reporting, it does not clearly require specific, direct reports to policymakers on the services and service needs of emotionally disturbed youth, a most vulnerable population in our state. The AMDD staff provided excellent information in the recent report!!!

A Non-Profit Education & Advocacy Organization

Working for Montana's Mental Health and Victory over Mental Illness

A National Voluntary Health Agency

A Montana Shares Agency

Montana
Shares

Printed on
Recycled Paper

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 3
DATE 1-12-99
BILL NO. SB124

January 12, 1999

TO: SENATE JUDICIARY COMMITTEE

FROM: NAMI MONTANA (National Alliance for the Mentally Ill-Montana)

RE: Senate Bill 124, Tom Beck, Sponsor

NAMI MT in general supports Senate Bill 124.

We would ask the committee to review the financial impact of this bill. We feel that 53-21-601 (2) (b) requiring Mt. State Hospital to be responsible for those services necessary for transition to community care and 53-21-134 which would allow nonresidents to stay at Mt. State Hospital longer than 30 days could both potentially have a financial impact. We request that additional funding to the Mental Health Access Plan or to the Addictive and Mental Disorders Division should follow these revisions if they do in fact have a financial impact.

Please see the attached fax sheet regarding 53-21-111 (2) and 53-21-138 (3).

Respectfully Submitted,

Mitzi Anderson, President, NAMI-MT

406-862-6357

Presented by:

Sandra Mihelish, NAMI MT

406-458-9738

TO: AMDD
FROM: Mitzi Anderson
President NAMI-Montana
RE: Senate bill 124 Tom Beck sponsor

Section 1, 53-21-111 (2)

1. Are there rules pertaining to the procedure for confirmation from the department? What are the ground rules?
2. It is now politically correct to allow the consumer a voice in his/her treatment. Surely this must extend to inpatient facilities! If a consumer chooses the state hospital, or another regional hospital over a local facility because he or she may feel more comfortable with the personnel there, or has had unsatisfactory experiences with the local facility or personnel I think the consumer should have the deciding voice in where to go. Competency is, after all, a judgement call. The consumer should at least have the right to appeal, or question if the department denies access to the state hospital, or to a facility other than the local one. This should especially be a right if the person is not on medicaid, has insurance, and will be required to pay for his voluntary inpatient stay.

Section 4 53-21-138 (3)

What about property damage, stalking, or peeping. These offenses are often perpetrated by mentally ill persons while in an exasperated state, but can be felonies. Do we recognize mental illness for misdemeanors, but not for felonies? Surely any person detained in jail for whatever reason, if he or she exhibits behavior suggesting a mental illness, should receive proper evaluation and treatment in a mental health facility.

Sincerely,

Mitzi Anderson

DATE _____

[illegible]

DATE 1-12-99

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: S.B. 60-124-152

< ■ > PLEASE PRINT < ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Ed McLean	District Judges	60	✓	
Mary Shipp	Ill. Bar, Clerk of Dist. Ct.	60	I	
Chert Schuman	—	152		
Dorothy Waldron	Mt. Rural Ed. Assn.	152		✓
Rose Frazee	S Am	152		✓
Kathy Collins	Self	152	✓	
Eric Jean	MEA/MFT	152		✓
Jane Jelniski	MA Co	SB60		✓
Rebecca Moog	MWL	152		✓
Helen Omsberg	Concerned Citizens TF	152	✓	
R. Sue Howett	Self	152	✓	
Suzanne Crawford	Self	152	✓	
Sue Whitte	MT Care Home	152	X	
Alexandra Volkerts	MT Advocacy Program	124		

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE 1-17-99

SENATE COMMITTEE ON JUDICIARY

BILLS BEING HEARD TODAY: SB 160 ~ 124 ~ 152

< ■ >

PLEASE PRINT

< ■ >

Check One

Name	Representing	Bill No.	Support	Oppose
Laure Kautsch	Christian Coalition of MT	SB 152	✓	
Anette Rundes	Eagle Forum	SB 152	✓	
LANE MELTON	MSBA	SB 152		X
Geraldyn Driscoll	OPI	SB 152		X
Sam Butter	MNA	124	✓	
A Smith	MTLA	SB 60	X	
Christine Kaufmann	MHRN	SB 152		X
Sandy Ditzinger	MT Juvenile Probation Office	SB 152		X
Ed McLean	State Auditor	SB 152		✓
BOB VOGEL	MSBA / HHS DIST. 1	152		X
Charles Brooks	Yellowstone County	SB 60		X

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

MINUTES

MONTANA SENATE 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By CHAIRMAN LORENTS GROSFIELD, on January 15, 1999 at 9:00 A.M., in Room 410 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: Sen. Duane Grimes (R)

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted:

Executive Action: SB 65, SB 87, SB 112, SB 124,
SB 158

EXECUTIVE ACTION ON SB 87

Valencia Lane explained that the amendments entitled SB008702.avl, EXHIBIT(1) were prepared to address the concern that the use of the term reasonable care and the standard in subsection (1) may not extend to subsection (2) lines 19-22.

Al Smith, Montana Trial Lawyers Assoc., agreed with the amendments regarding the duty of reasonable care.

Motion: SEN. HALLIGAN MOVED TO AMEND SB 87.

EXECUTIVE ACTION ON SB 124

Ms. Lane explained that the amendments - SB012401.avl, EXHIBIT(2) would eliminate section 6 of the bill, page 4, lines 11-28. The section currently requires a biannual report to the governor and the legislature regarding severely emotionally disturbed youth. There was some discussion at the hearing that the report is a useful document. The amendment would require the biannual report.

SEN. BARTLETT stated there was testimony to the fact that legislators may not read this report but many of the groups most intimately concerned with mental health delivery in the state find it very valuable.

CHAIRMAN GROSFIELD questioned the cost of preparing the report.

Dan Anderson, Department of Public Health and Human Services, stated the additional cost would be minimal.

Motion/Vote: SEN. HALLIGAN MOVED TO AMEND SB 124. The motion carried unanimously.

Motion: SEN. MCNUTT MOVED SB 124 DO PASS AS AMENDED.

Discussion:

SEN. BARTLETT remarked that testimony at the hearing was that a fiscal note may be necessary. People in custody of the department may be transferred for placement up to 10 days and the bill would change the 30 day absolute limitation on out-of-state commitments.

Dan Anderson, Department of Public Health and Human Services, believed there would not be a fiscal impact. One of the features of the transfers from the prison is that they have to accept the transfer. They cannot be put in a position where they are taking more people than can be handled within their budget.

Vote: The motion carried unanimously, 9-0.

EXECUTIVE ACTION ON SB 158

{Tape : 1; Side : B; Approx. Time Counter : 9.45}

Ms. Lane explained that the amendments, SB015801.avl - EXHIBIT(3) were provided by Brenda Nordlund, Department of Justice.

Motion/Vote: SEN. HALLIGAN MOVED TO AMEND SB 158. The motion carried unanimously.

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 2
DATE 1-15-99
FILE NO. SB124

Amendments to Senate Bill No. 124
1st Reading Copy

Requested by Senator Steve Doherty

For the Senate Judiciary Committee

Prepared by Valencia Lane
January 12, 1999

1. Title, line 11 through line 12.
Following: "PLANNING;" on line 11
Strike: remainder of line 11 through "DISTURBANCES;" on line 12
2. Title, line 14.
Strike: "53-21-202,"
3. Page 4, line 11 through line 28.
Strike: section 6 in its entirety
Renumber: subsequent sections

- END -

ROLL CALL

1-15-99

[illegible]



SENATE STANDING COMMITTEE REPORT

January 15, 1999

Page 1 of 1

Mr. President:

We, your committee on Judiciary report that **Senate Bill 124** (first reading copy -- white) do pass as amended.

Signed: 
Senator Lorents Grosfield, Chair

And, that such amendments read:

1. Title, line 11 through line 12.

Following: "PLANNING;" on line 11

Strike: remainder of line 11 through "DISTURBANCES;" on line 12

2. Title, line 14.

Strike: "53-21-202,"

3. Page 4, line 11 through line 28.

Strike: section 6 in its entirety

Renumber: subsequent sections

- END -

Committee Vote:

Yes 6, No 0.

111239SC.srf

LEGISLATIVE TAPE LOG

COMMITTEE:

DATE:

MINUTES

CONTENT NOTES

9:00

Ex Act - SB 87

Ex Act - SB 112

9:45

Ex Act SB 124

Ex Act SB 158

10:28

Ex Act SB 65

11:28

Adjourn

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By **CHAIRMAN LOREN SOFT**, on March 5, 1999 at 3:00 P.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Loren Soft, Chairman (R)
Rep. Carolyn Squires, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Edith Clark (R)
Rep. Bob Davies (R)
Rep. Tom Dell (D)
Rep. Mary Anne Guggenheim (D)
Rep. Verdell Jackson (R)
Rep. Billie Krenzler (D)
Rep. Ralph Lenhart (D)
Rep. Brad Molnar (R)
Rep. Trudi Schmidt (D)
Rep. Jim Shockley (R)
Rep. Bruce Simon (R)
Rep. Bill Thomas (R)

Members Excused: Rep. Carol Williams (D)

Members Absent: Rep. Roy Brown, Vice Chairman (R)
Rep. Chase Hibbard (R)

Staff Present: David Niss, Legislative Branch
Cassandra Drynan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 176
SB 197
SB 124

Executive Action: SB 197 DO PASS 15-2

HEARING ON SENATE BILL 124

Opening Statement by Sponsor: SEN. BECK introduced the bill.
{Tape : 1; Side : A; Approx. Time Counter : 0.1 - 3.9}

Proponents' Testimony:

Ms. Anita Roessmann, Montana Advocacy Program, distributed EXHIBIT(1), a proposed amendment to SB 124 and EXHIBIT(2).
{Tape : 1; Side : A; Approx. Time Counter : 3.9 - 13.3}

Mr. Dan Anderson, Department of Public Health and Human Services, distributed EXHIBIT(3).
{Tape : 1; Side : A; Approx. Time Counter : 13.3 - 19.7}

Mr. Gene Haire, Executive Director of the Mental Disabilities Board of Visitors.
{Tape : 1; Side : A; Approx. Time Counter : 19.7 - 22.4}

Ms. Andrea Maryl, Executive Director of the Mental Health Association of Montana, distributed EXHIBIT(4)
{Tape : 1; Side : A; Approx. Time Counter : 22.4 - 26.4}

Mr. Al Smith, former attorney for patients at the Montana State Hospital, distributed EXHIBIT(5), proposed amendments to SB 124.
{Tape : 1; Side : A; Approx. Time Counter : 26.4 - 1:B:2.4}

Opponents' Testimony: None.

Questions from Committee Members and Responses:
{Tape : 1; Side : B; Approx. Time Counter : 2.7 - 26.9}

Closing by Sponsor: SEN. BECK closed.
{Tape : 1; Side : B; Approx. Time Counter : 26.9 - 30.7}

HEARING ON SENATE BILL 176

Opening Statement by Sponsor: SEN. BOHLINGER introduced the bill. EXHIBIT(6) & EXHIBIT(7) were distributed.
{Tape : 2; Side : A; Approx. Time Counter : 0.2 - 13.5}

Proponents' Testimony:

Mr. Rick Bartos, Department of Public Health and Human Services.
{Tape : 2; Side : A; Approx. Time Counter : 13.5 - 14.7}

Mr. Al V. Thomas, American Association of Retired Persons.

PROPOSED AMENDMENT TO SB 124, SECTION 1

53-21-111. **Voluntary admission.** (1) Nothing in this ~~This~~ part may not be construed to limit the right of any a person to make voluntary application for admission at any time to any a mental health facility or professional person. An application for admission to a mental health facility must be in writing on a form prescribed by the facility and approved by the department which explains the process for requesting release, explains that the applicant can be held for five days after applying for release, and explains that the facility can petition a court to civilly commit the applicant. ~~An application~~ The admission is not valid unless (i) it is has been approved by a professional person; (ii) the applicant has been told orally that a request for release from the voluntary commitment must be in writing; (iii) the applicant has been told orally that the facility may hold the applicant for up to five days after the applicant has applied for release; (iv) the applicant has been told orally that the facility can petition the court to civilly commit the applicant; and (v) a copy of the application has been is given to the person being voluntarily admitted. A statement of the rights of the person voluntarily applying for admission, as set out in this part, ~~including the right to release;~~ must be furnished to the patient within 12 hours.

Shodair Children's Hospital
ADMISSION AGREEMENT

* * * * *

In this contract, "I," "me," and "my," shall refer to the Responsible Person named below. Any person who signs this contract on my behalf will be referred to as the "Cosignor," and the person who actually receives the treatment will be referred to as the "Patient." Shodair Children's Hospital will be referred to as the "Hospital."

1. **FINANCIAL AGREEMENT:** By signing this contract, I am agreeing to pay for the goods and/or services provided to the Patient by the Hospital, if I fail to make initial and/or continuing application for Patient's medicaid eligibility, regardless of the existence of insurance or other third-party liability. Payment in full is due when service is rendered or at the time of the Patient's discharge, whichever is later. I understand my account will be considered delinquent if payment in full is not made within sixty (60) days of the day when payment is due. If my account becomes delinquent, I agree to pay on all money past due in an amount equal to the maximum legal rate of interest allowed by Section 39-1-107, Montana Code Annotated, as of the date I sign this contract.

I agree to be responsible for all costs of collection if my account is not timely paid, including a reasonable attorney's fee, court costs and actual and reasonable out-of-pocket expenses incurred in connection with the collection of my account.

2. **WAIVERS; GOVERNING LAW:** If the Hospital grants any waiver, modification or other indulgence of any kind at any time, it shall apply only to the specific instance involved and will not act as a waiver, modification or indulgence for any other or future act, event or condition. This agreement shall be construed, interpreted and governed in accordance with the laws of the State of Montana.

3. **RELEASE OF INFORMATION AND ASSIGNMENT OF INSURANCE:** I agree to the release of information to any third-party payor deemed necessary for the processing of any insurance or third-party payor claim. I authorize and direct the insurance company or any other concerned third-party payor to make payment directly to the Hospital for goods or services provided by the Hospital to the Patient.

The Responsible Person agrees to perform according to the terms of this contract and hereby acknowledges receiving a copy of this contract on the date below the Responsible Person's signature. The Responsible Person's certifies that he/she is duly authorized to execute this contract and accepts its terms for and on behalf of the Patient.

RESPONSIBLE PERSON'S SIGNATURE:

Date: _____

PATIENT'S NAME:

SHODAIR CHILDREN'S HOSPITAL

Date: _____

By _____
Date: _____

DATE: _____

TIME: _____

1. I the undersigned, do hereby authorize Dr. _____, his associates and /or consultants and the hospital staff to carry out on my _____, _____ those procedures, examinations and test as deemed advisable by my physician(s) in attendance.
- (Self, wife, son, etc.) (Name of Patient)

2. I hereby authorize the performance of additional services deemed advisable and necessary, including but not limited to, the performance of services involving pathology, radiology, anesthesiology, physical therapy, respiratory therapy, blood transfusion, laboratory procedures and nuclear medicine as may be ordered by my physician(s). I understand the procedures, examinations and tests are necessary for diagnostic purposes, for definitive treatment or as a palliative measure. I have been informed of any risks or complications which may be associated with the procedures, examinations and tests which may be associated with those to be performed. I am aware that the practice of medicine is not an exact science and I acknowledge no guarantees have been made as to the results of the treatment rendered.

3. I certify that I have read and fully understand the consent for treatment, and that all blanks or statements requiring completion were filled in and those not requiring completion, were stricken before signed.

PATIENT'S SIGNATURE

WITNESS

(If Patient is A Minor Or Unable To Sign, Complete The Following)

Patient is a minor _____, or is unable to sign because _____

MOTHER/FATHER

GUARDIAN

OTHER PERSON AND RELATIONSHIP



St. Peter's Hospital

2475 Broadway
Helena, MT 59601
(406) 442-2480

CONSENT FOR TREATMENT

905-005-S-1 (Rev. 12/89)



500 15 Avenue South • P.O. Box 5013
Great Falls, Montana 59403 (406) 455-3333

CONDITIONS FOR ADMISSION

MEDICAL AND SURGICAL CONSENT:

The undersigned acknowledges that there exists a condition requiring medical care, and consents to the rendering of such care, which may include routine diagnostic procedures and such medical treatment as the patient's attending physician(s) or other members of the medical staff consider to be necessary. The undersigned consents to any x-ray examination, laboratory procedures, anesthesia, medical or surgical treatment or medical services rendered the patient under the general and special instructions of the physician(s). The undersigned recognizes that all doctors of medicine furnishing services to the patient are not employees or agents of the hospital, but rather are independent contractors who have been granted the privilege of using its facilities for the care and treatment of their patients and that the hospital is not liable for any act or omission of said physician.

RELEASE OF HEALTH CARE AND ACCOUNT INFORMATION:

Health care information may be considered confidential under state or federal law. The undersigned hereby authorizes Benefis Healthcare and/or the patient's attending physician(s) to release and disclose any and all health care and account information relating to the patient's care and treatment at Benefis Healthcare to the following: 1) any insurance company, employee benefit plan, or other person, firm or corporation which is contractually obligated to pay any part of the patient's charges; 2) any government entity administering any program by which any part of the patient's charges may be paid and the agents of any such government entity, and 3) any physician or other health care provider involved in rendering care and treatment to the patient.

ASSIGNMENT OF BENEFITS:

The undersigned does hereby assign, transfer, and set over to Benefis Healthcare and/or the patient's physician(s) all benefits due to the patient for services provided in Benefis Healthcare, which benefits may be provided by any insurance company, employee benefit plan, or other person, firm, corporation, or government entity, and hereby direct any such insurance company, employee benefit plan, person, firm, corporation or government entity to pay such benefits directly to Benefis Healthcare and/or the patient's physician(s). The undersigned does hereby recognize and agree that this assignment does not release the patient or any insurance company, employee benefit plan or other person, firm, corporation or government entity legally obligated to pay for such services provided in Benefis Healthcare from liability therefore, except as required by law, and that this assignment is being made solely for the purpose of facilitating payment to Benefis Healthcare and/or the patient's physician(s) of charges incurred for such services.

Patient Signature

Signature of Parent, Guardian or Other Representative

Witness

Relationship to Patient

Date

Reason Patient is Unable to Sign

FORM I
MSH VOLUNTARY ADMISSION SCREENING

APPLICATION FOR VOLUNTARY ADMISSION

(To be filled out by the applicant)

(a) I, _____, hereby voluntarily apply for admission to the Warm Springs campus, Montana State Hospital, in order that my mental condition may be examined, tested, observed, and treated in accordance with Title 53, Chapter 21, Montana Code Annotated.

- (i) I was born on _____ / _____ / _____
month day year
- (ii) I live at _____
address city state
- (iii) My occupation is _____
- (iv) I have completed _____ years of education
- (v) I am ☐ single ☐ married ☐ separated
- (vi) I am ☐ , am not ☐ , a veteran
- (vii) My social security number is _____
- (viii) I believe I need psychiatric treatment because:

- (ix) Relative to contact in case of emergency is:

name

address city state zip

(b) I understand that I may make a written request to be released from the hospital at any time, and that the hospital has the right to detain me for no more than five days, excluding weekends and holidays, after receiving my request for release. I understand that a petition to involuntarily commit me may be filed if the hospital's professional staff believe I should not be released when I request it.

I also understand that the cost of my transportation to the hospital will be provided by myself, my parents or guardians (if applicable), or by the welfare department of the county in which I reside.

DATED this _____ day of _____, 19____ at _____, Montana.

WITNESS

VOLUNTARY APPLICANT

Witness Address

City

State

IN PATIENT SERVICE AGREEMENT**CONSENT TO CARE:**

The patient agrees to accept the nursing care provided by the hospital. The patient further consents to any x-rays examination, laboratory procedure, anesthesia, or medical or surgical treatment or hospital services rendered the patient under the general and special instructions of the physician.

PAYMENT AGREEMENT:

The undersigned hereby agrees to pay for all charges incurred during this admission, regardless of the existence of insurance or other third party liability, and to pay in full upon discharge for all services rendered unless prior arrangements have been made with a representative of the Hospital Business Office. Upon the non-payment of any minimum payment when due, the unpaid balance at the option of hospital shall become immediately due and payable without demand or notice. The undersigned further agrees to pay all costs of collection, including a reasonable attorney's fee, if the account is not timely paid.

DISCLOSURE STATEMENT:

The undersigned acknowledges receipt of a copy of the Initial Disclosure statement furnished by Kalispell Regional Hospital

PERSONAL VALUABLES:

The undersigned understands that patient jewelry, money, eye glasses, dentures, and other patient valuables are the patient's responsibility and agrees that Pathways Treatment Center is not responsible for their safety.

.....

APPLICATION FOR VOLUNTARY ADMISSION

Patient's Name: _____

Date and Time of Admission _____, 19 ____ : ____ o'clock ____ m.

I hereby voluntarily apply for admission to the Pathways Treatment Center. If I decide to leave prematurely, I will make a written request for discharge. I understand the facility has the right to detain me for up to five (5) additional working days after my written request for discharge.

I acknowledge that I have received a copy of this application and the attached statement of my rights as a voluntary patient.

By _____
Hospital Representative

Patient Signature

Guarantor Signature

This application is approved by the following practitioner:

Date

Signature

Title

A service of Kalispell Regional Hospital • 310 Sunnyview Lane • Kalispell, MT 59901 • (406) 752-5111

PATHWAYS TREATMENT CENTER
200 Heritage Way • Kalispell, MT 59901

**IN PATIENT
SERVICE AGREEMENT**



MONTANA ADVOCACY PROGRAM, Inc.**Protection & Advocacy for Persons with DisABILITIES**316 N. Park, Room 211
P.O. Box 1680
Helena, Montana 59624*Assistive Technology (AT)**Client Assistance Program (CAP)**Protection and Advocacy for Individuals with a Developmental Disability (PADD)**Protection and Advocacy for Individuals with a Mental Illness (PAIMI)**Protection and Advocacy of Individual Rights (PAIR)*

(406) 444-3889

(800) 245-4743 Voice/TDD

(406) 444-0261 FAX

March 5, 1999

Senator Loren Soft, Chair
House Human Services Committee
Capitol Building
Helena, Montana 59620

RE: SB 124, Mental Health Services

Mr. Chair and Members of the Committee:

The Montana Advocacy Program (MAP) is a private, non-profit organization designated to protect and advocate for the civil rights of people with disabilities in Montana, including people with mental illness.

MAP supports Senate Bill 124, but proposes the following amendment to Section 1 of the bill. The additional amendments requested by MAP are **in bold type and double underlined**.

53-21-111. **Voluntary admission.** (1) Nothing in this This part may not be construed to limit the right of any a person to make voluntary application for admission at any time to any a mental health facility or professional person. An application for admission to a mental health facility must be in writing on a form prescribed by the facility and approved by the department which explains the process for requesting release, explains that the applicant can be held for five days after applying for release, and explains that the facility can petition a court to civilly commit the applicant. An application The admission is not valid unless (i) it is has been approved by a professional person; (ii) the applicant has been told orally that a request for release from the voluntary commitment must be in writing; (iii) the applicant has been told orally that the facility may hold the applicant for up to five days after the applicant has applied for release; (iv) the applicant has been told orally that the facility can petition the court to civilly commit the applicant; and (v) a copy of the application has been is given to the person being voluntarily admitted. A statement of the rights of the person voluntarily applying for admission, as set out in this part, including the right to release, must be furnished to the patient within 12 hours.

MAP requests this amendment because a survey of five Montana hospitals revealed that only two hospitals inform people who apply for voluntary psychiatric admission of the rights waived by voluntary admission and the procedure for obtaining release. Not informing an applicant for

MONTANA ADVOCACY PROGRAM, Inc.

March 5, 1999

Page 2

voluntary admission of the consequences of that admission is a violation of the applicant's rights under Montana law.

The voluntary admission form is an agreement between the hospital and the patient. Under the agreement, by law, the patient has certain rights once admitted but the patient also loses certain rights once admitted. The most important right lost as soon as the voluntary admission agreement is made is the patient's right to leave. Therefore, the patient must be informed that he will lose his liberty before he signs the agreement to admit himself. The information must appear on the admission form above the patient's signature line.

In many cases, even a paragraph in the form will not serve to inform the patient. The person going over the form has to tell the patient about the paragraph in order to give adequate notice of the rights the patient will give up.

Sec. 53-21-111 (1), M.C.A., already says that a voluntary admission is not valid unless the form was signed by a professional person and the patient was given a copy of the form. With this amendment, the law will say that the admission is also invalidated by failure to include release and recommitment information in the form, or by failure to review the release information orally.

To summarize, we believe that a meaningful voluntary admission form has to make three things clear: First, that the patient can be held by the facility for five days after the patient notifies the facility that he wants to leave; second, that the patient must apply for release in writing; and third, that the facility may initiate voluntary commitment proceedings.

Sincerely,

A handwritten signature in cursive script, reading "Anita Roessmann".

Anita M. Roessmann

Testimony on Senate Bill 124
House Human Services Committee
March 5, 1999

Senate Bill 124 was requested by the Department of Public Health and Human Services in order to make several changes in mental health statutes. These changes clarify language, remove unnecessary requirements and help to assure that certain individuals who are in need of mental health services have those services available.

Section 1 simply removes the requirement that mental health facilities receive the approval of the Department for the forms they use for voluntary admission. The Department believes it is unnecessary for non-State mental health providers to seek Department approval for forms the facilities develop for their own use.

Section 2 would make it possible for persons in the custody of the Department of Corrections to be transferred to a mental health facility with the approval of the mental health facility. This would most often be used in transfers between Montana State Prison and Montana State Hospital for emergency psychiatric treatment. These 10 day transfers were used occasionally prior to the reorganization of state government which separated mental health and corrections into two departments. When the statutes were changed to create the DPHHS, transfers from the prison were no longer possible. We do not anticipate large numbers of transfers but believe when a mental health crisis exists, this kind of short term transfers can assure prompt and appropriate services are received by a mentally ill inmate.

Section 3 makes involuntary commitments of out-of-state residents the same length as commitments of Montana residents. Current law limits commitments of out-of-state residents to 30 days and requires that the person be transferred to his or her home state. It is not always possible to accomplish a transfer within 30 days and if the patient is not ready for discharge or willing to sign a voluntary admission, the State Hospital is faced with no legal way to hold an individual with a serious mental illness. By allowing for a 90 day commitment, if necessary, attempts can be made to transfer the patient to his/her home state, but if that fails, treatment can be completed.

Section 4 is intended not to change the law but to clarify the intent of this section. This section is intended to require that a person who is arrested for a minor

misdemeanor be screened and, if the person had a significant mental illness that could require involuntary treatment, to refer that person to a treatment program. The section has been interpreted by some to require that a commitment hearing be held. By inserting the word "may" prior to "require", we hope to clarify that this is only a screening for possible serious mental illness, not a requirement that commitment be pursued in all cases.

Section 5 adds a requirement that discharge plans include referrals for financial assistance needed after discharge. This additional language replaces a section which is repealed in section 7. That section requires that the State Hospital contact the county welfare department for all Hospital discharges. The Department believes it is a much more efficient use of discharge planning staff to have them individually determine each patient's need for financial assistance and making referrals based on those determinations rather than notifying the welfare department of all discharges whether the patient needs or qualifies for welfare assistance.

Section 6 makes a slight, but potentially important, change to the stated mission of Montana State Hospital. There are occasion when transition of patients from the Hospital to community based services can be aided by outreach of hospital staff to provide medication management, consultation to professionals in the community, or other services which are not strictly inpatient. We are not seeking staff for these kinds of services and do not intend to create a significant outpatient program. Our intent is to achieve through this language a small degree of flexibility in order to assist patients in successful community integration.

Testimony By Dan Anderson, Administrator
Addictive and Mental Disorders Division
Department of Public Health and Human Services



Mental Health Association of Montana

An Affiliate of the National Mental Health Association EXHIBIT - 4

State Headquarters • 25 So. Ewing, Suite 200 • Helena, Montana 59601 DATE 3-5-99
(406) 442-4276 • Toll-Free 1-800-823-MHAM • Fax (406) 442-4986 HB 124

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HOUSE HUMAN SERVICES COMMITTEE

MARCH 5, 1999

TESTIMONY OF ANDREA MERRILL, EXECUTIVE DIRECTOR MENTAL HEALTH ASSOCIATION OF MONTANA

SENATE BILL NO. 124, INTRODUCED BY SENATOR TOM BECK TO GENERALLY REVISE MENTAL HEALTH LAWS

The Mental Health Association of Montana supports this legislation because the changes will help the State better provide appropriate treatment for persons with a mental illness in certain circumstances. The MHAM particularly supports the following changes:

Section 2: Allowing inmates of state correctional facilities to be transferred to mental health facilities for up to ten (10) days provides an opportunity to properly evaluate and provide acute psychiatric treatment to inmates in emergency and crisis situations.

Section 3: Eliminating the 30-day limit on care for non-residents in detention pending return to their home state is in the best interests of the person with a mental illness. Existing law does not allow for extending the commitment of these individuals, and situations may occur where the state hospital is required to discharge an individual with active psychiatric symptoms and for whom aftercare services have not been arranged. This change will allow MSH time to make proper arrangements for aftercare services with the most appropriate provider for the individual, whether in-state or out-of-state.

Section 4: It is important to clarify that screening of individuals detained on minor misdemeanors is meant to insure that people whose inappropriate behaviors may be a symptom of mental illness will receive treatment rather than incarceration.

Section 7: This extension of the mission of MSH will go a long way in helping MSH patients successfully transition to lower levels of care in community settings. Providing for smooth transitions is not only humane, but it is an important part of the vision of the Mental Health Access Plan (MHAP) for a seamless, more cost-effective mental health system. State hospital psychiatric staff may be able to provide community mental health centers with medication follow-up, assistance with crisis programs, and coordination of services with other aftercare service providers. Much of this can be done using our state's excellent conferencing technology.

Former Section 6: The MHAM supports the Senate amendment to retain the requirement that DPHHS submit a biennial report to the Governor and the Legislature concerning delivery of mental health services to children with emotional disturbances (SED children). This provision was enacted as part of the Managing Resources Montana program, prior to the managed care contract. While the MHAP contract calls for certain data collection and reporting, it does not clearly require specific, direct reports to policymakers on the services and service needs of emotionally disturbed youth, a most vulnerable population in our state. The AMDD staff provided excellent information in the recent report!!!



A Non-Profit Education & Advocacy Organization

Working for Montana's Mental Health and Victory over Mental Illness

A National Voluntary Health Agency

A Montana Shares Agency



Amendments to SB 124

2nd Reading Copy

For the House Human Services Committee

1. Page 1, line 13

Following: " HOSPITAL; "

Insert: " PROVIDING FOR JURY TRIAL IN EXTENSION OF COMMITMENT HEARINGS; "

Following: " 53-21-111; "

Insert: " 53-21-128; "

2. Page 5, line 17

Insert: " **Section 7.** Section 53-21-128, MCA, is amended to read:

53-21-128. Petition for extension of commitment period. (1) (a) Not less than 2 calendar weeks prior to the end of the 3-month period of commitment provided for in 53-21-127(2), the professional person in charge of the patient at the place of commitment may petition the district court in the county where the patient is committed for extension of the commitment period unless otherwise ordered by the original committing court. The petition must be accompanied by a written report and evaluation of the patient's mental and physical condition. The report must describe any tests and evaluation devices that have been employed in evaluating the patient, the course of treatment that was undertaken for the patient, and the future course of treatment anticipated by the professional person.

(b) Upon the filing of the petition, the court shall give written notice of the filing of the petition to the patient, the patient's next of kin, if reasonably available, the friend of respondent appointed by the court, and the patient's counsel. If any person notified requests a hearing prior to the termination of the previous commitment authority, the court shall immediately set a time and place for a hearing on a date not more than 10 days from the receipt of the request and notify the same people, including the professional person in charge of the patient. If a hearing is not requested, the court shall enter an order of commitment for a period not to exceed 6 months.

(c) Procedure on the petition for extension when a hearing has been requested must be the same in all respects as the procedure on the petition for the original 3-month commitment ~~except the patient is not entitled to trial by jury~~. The hearing must be held in the district court having jurisdiction over the facility in which the patient is detained unless otherwise ordered by the court. Court costs and witness fees, if any, must be paid by the county that paid the same costs in the initial commitment proceedings.

(d) If upon the hearing the court finds the patient not to be suffering from a mental disorder and requiring commitment within the meaning of this part, the patient must be discharged and the petition dismissed. If the court finds that the patient continues to suffer from a mental disorder and to require commitment, the court shall order commitment, custody in relatives, outpatient therapy, or other order as set forth in 53-21-127(2). However, an order may not affect the patient's custody for more than 6 months. In its order, the court shall describe what alternatives for treatment of the patient are available, what alternatives were investigated, and

why the investigated alternatives were not found suitable. The court may not order continuation of an alternative that does not include a comprehensive, individualized plan of treatment for the patient. A court order for the continuation of an alternative must include a specific finding that a comprehensive, individualized plan of treatment exists.

(2) Further extensions may be obtained under the same procedure described in subsection (1); however, the patient's custody may not be affected for more than 1 year without a renewal of the commitment under the procedures set forth in subsection (1), including a statement of the findings required by subsection (1). "

Instructions: Renumber subsequent sections.

HOUSE OF REPRESENTATIVES

Human Services COMMITTEE

ROLL CALL

DATE 3-5-99

NAME	PRESENT	ABSENT	EXCUSED
Rep. Roy Brown		X	
Rep. Carolyn Squires	X		
Rep. Chris Ahner	X		
Rep. Edith Clark	X		
Rep. Bob Davies	X		
Rep. Tom Dell	X		
Rep. Mary Anne Guggenheim	X		
Rep. Ralph Lenhart	X		
Rep. Chase Hibbard			X
Rep. Verdell Jackson	X		
Rep. Billie Krenzler	X		
Rep. Brad Molnar	X		
Rep. Trudi Schmidt	X		
Rep. Jim Shockley	X		
Rep. Bruce Simon	X		
Rep. Bill Thomas	X		
Rep. Carol Williams		X	
Rep. Loren Soft	X		

COMMITTEE PROXY

Date 3/5/99

I request to be excused from the:

Human Serv. Committee
meeting this date because of other commitments.

I desire to leave my proxy with:

Rep. Squires
(Rep. Name)

Indicate Bill or Amendment Number and your vote AYE
or No

If there are amendments, list them by name and number
under the bill and indicate a separate vote for each
amendment.

(Circle One)

House Senate

Bill/Amendment

Aye

No

<u>7</u>	<u>1997</u>	<u>X</u>	

Rep.

Carol Miller

Please vote me as follows
on these bills

SB 75	NO
SB 176	YES
SB 124	YES
SB 197	NO

Bruce Simon

Kreitzberg

HOUSE OF REPRESENTATIVES COMMITTEE PROXY

DATE 3-6-99

I request to be excused from the 3-6-99 4:30 P.M.
Committee meeting this date because of other commitments. I desire
to leave my proxy vote with Carolyn Squires.

Indicate Bill Number and your vote Aye or No. If there are
amendments, list them by name and number under the bill and
indicate a separate vote for each amendment.

HOUSE BILL/AMENDMENT	AYE	NO
SB 124	X	
SB 75	X	
SB 176	X	
SB 197 2		

SENATE BILL/AMENDMENT	AYE	NO
SB 124	X	
SB 75	X	
SB 176	X	
SB 197 2	X	

Rep. Dick Krueger
(Signature)

HR:1993
WP/PROXY

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON HUMAN SERVICES

Call to Order: By CHAIRMAN LOREN SOFT, on March 10, 1999 at 3:30 P.M., in Room 104 Capitol.

ROLL CALL

Members Present:

Rep. Loren Soft, Chairman (R)
Rep. Roy Brown, Vice Chairman (R)
Rep. Carolyn Squires, Vice Chairman (D)
Rep. Chris Ahner (R)
Rep. Edith Clark (R)
Rep. Bob Davies (R)
Rep. Tom Dell (D)
Rep. Chase Hibbard (R)
Rep. Verdell Jackson (R)
Rep. Billie Krenzler (D)
Rep. Ralph Lenhart (D)
Rep. Brad Molnar (R)
Rep. Jim Shockley (R)
Rep. Bruce Simon (R)
Rep. Bill Thomas (R)
Rep. Carol Williams (D)

Members Excused: Rep. Mary Anne Guggenheim (D)

Members Absent: Rep. Trudi Schmidt (D)

Staff Present: David Niss, Legislative Branch
Cassandra Drynan, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 438, SB 364,
SJ 5,
Executive Action: SB 124 BE CONCURRED IN AS
AMENDED 16-0
SB364 BE CONCURRED IN 16-0
SB 438 BE CONCURRED IN 14-0
SJ 5 BE CONCURRED IN AS
AMENDED 16-0

Motion/Vote: REP. LENHART moved that HB 364 BE CONCURRED IN.

Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 19.4 - 21.2}

EXECUTIVE ACTION ON SENATE JOINT RESOLUTION 5

Motion: REP. SIMON moved that SJ 5 BE CONCURRED IN.

Motion: REP. SIMON moved that SJ 5 BE AMENDED.

{Tape : 1; Side : B; Approx. Time Counter : 21.2 - 21.9}

See standing committee report for language.

{Tape : 1; Side : B; Approx. Time Counter : 21.9 - 23.2}

Vote: The question was called for on REP. SIMON'S motion that SJ 5 BE AMENDED. Motion carried unanimously.

Vote: The question was called for on REP. SIMON'S motion that SJ 5 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 23.2 - 24.7}

EXECUTIVE ACTION ON SENATE BILL 124

Motion: REP. LENHART moved that SB 124 BE CONCURRED IN.

Discussion: Concerning amendments to the bill, EXHIBIT(1).

{Tape : 1; Side : B; Approx. Time Counter : 24.7 - 29.3}

Motion/Vote: REP. SHOCKLEY moved that SB 124 BE AMENDED. Motion carried unanimously.

Motion/Vote: REP. AHNER moved that SB 124 BE CONCURRED IN AS AMENDED. Motion carried unanimously.

{Tape : 1; Side : B; Approx. Time Counter : 29.3 - 30}

Amendments to Senate Bill No. 124
3rd Reading Copy

Requested by Representative Loren Soft

For the House Human Services Committee

Prepared by David Niss
March 8, 1999 (8:05AM)

1. Title, line 6.

Following: "FORMS;"

Insert: "SPECIFYING THE CONTENT OF VOLUNTARY ADMISSION FORMS AND
SPECIFYING THE REQUIREMENTS FOR A VALID VOLUNTARY ADMISSION;
"

2. Page 1, line 20.

Following: "admission"

Insert: "-- content of admission form -- requirements for valid
admission"

3. Page 1, line 20.

Following: "(1)"

Insert: "{a}"

4. Page 1, line 22.

Following: "."

Insert: "{b}"

5. Page 1, lines 23 and 24.

Strike: "An application" on line 23 through "admitted." on line
24.

Insert: "The form must explain:

(i) the process for requesting release and that the request
must be in writing;

(ii) that the individual applying for release may be held
involuntarily for up to 5 days after requesting release; and

(iii) that the facility may request a court to involuntarily
commit the applicant.

(c) "

6. Page 1, lines 25 and 26.

Strike: "including the right to release,"

7. Page 2.

Following: line 7

Insert: "(4) An individual applying for voluntary admission pursuant to this section may not be admitted unless:

- (a) the admission is approved by a professional person;
- (b) the individual applying for admission has been informed orally of the matters required by subsection (1)(b) to be stated in the written application for admission;
- (c) a copy of the written application for admission has been given to the applicant; and
- (d) the admission otherwise complies with the requirements of this section."

Renumber: subsequent subsection

- END -



HOUSE STANDING COMMITTEE REPORT

March 11, 1999

Page 1 of 2

Mr. Speaker:

We, your committee on **Human Services** report that **Senate Bill 124** (third reading copy -- blue) **be concurred in as amended.**

Signed: _____

Loren Soft
Representative Loren Soft, Chair

To be carried by Senator Loren Soft

And, that such amendments read:

1. Title, line 6.

Following: "FORMS;"

Insert: "SPECIFYING THE CONTENT OF VOLUNTARY ADMISSION FORMS AND
SPECIFYING THE REQUIREMENTS FOR A VALID VOLUNTARY ADMISSION;
"

2. Page 1, line 20.

Following: "admission"

Insert: "-- content of admission form -- requirements for valid
admission"

3. Page 1, line 20.

Following: "(1)"

Insert: "(a)"

4. Page 1, line 22.

Following: "."

Insert: "(b)"

5. Page 1, lines 23 and 24.

Committee Vote:

Yes 16, No 0.

551151SC.ham

Strike: "An application" on line 23 through "admitted." on line 24.

Insert: "The form must explain:

(i) the process for requesting release and that the request must be in writing;

(ii) that the individual applying for release may be held involuntarily for up to 5 days after requesting release; and

(iii) that the facility may request a court to involuntarily commit the applicant.

(c)"

6. Page 1, lines 25 and 26.

Strike: "including the right to release,"

7. Page 2.

Following: line 7

Insert: "(4) An individual applying for voluntary admission pursuant to this section may not be admitted unless:

(a) the admission is approved by a professional person;

(b) the individual applying for admission has been informed orally of the matters required by subsection (1)(b) to be stated in the written application for admission;

(c) a copy of the written application for admission has been given to the applicant; and

(d) the admission otherwise complies with the requirements of this section."

Renumber: subsequent subsection

- END -

HOUSE OF REPRESENTATIVES

Human Services COMMITTEE

ROLL CALL

DATE 3-10-99

NAME	PRESENT	ABSENT	EXCUSED
Rep. Roy Brown	X		
Rep. Carolyn Squires	X		
Rep. Chris Ahner	X		
Rep. Edith Clark	X		
Rep. Bob Davies	X		
Rep. Tom Dell	X		
Rep. Mary Anne Guggenheim			X
Rep. Ralph Lenhart	X		
Rep. Chase Hibbard			
Rep. Verdell Jackson	X		
Rep. Billie Krenzler	X		
Rep. Brad Molnar	X		
Rep. Trudi Schmidt			X
Rep. Jim Shockley	X		X
Rep. Bruce Simon	X		
Rep. Bill Thomas	X		
Rep. Carol Williams	X		
Rep. Loren Soft	X		

COMMITTEE PROXY

Date

3/10/99

I request to be excused from the:

Human Services Committee
meeting this date because of other commitments.

I desire to leave my proxy with:

Williams

(Rep. Name)

Indicate Bill or Amendment Number and your vote AYE
or No

If there are amendments, list them by name and number
under the bill and indicate a separate vote for each
amendment.

(Circle One)

House Senate

Bill/Amendment

Aye

No

SB 438	X	
SB SSR 5	X	
SB 364	X	
SB 124 as amended	X	

Rep.

Maggiori

LEGISLATIVE TAPE LOG

COMMITTEE:

HOUSE HUMAN SERVICES

DATE:

March 10, 1999

MINUTES

CONTENT NOTES

0.8

SB 438 Opening

2.9

SEN. Chris Christensen
SD - 23
Proponents access to effedrine
greg lind - anesthesiologist - msla

3.3

Steve Bullock - Dept. of Justice

3.9

Jim Smith - MT st. Pharmaceutical

4.8

Closing SB 438

5.2

5.4

* Rep. Simon - Do concern
quest - @

5.9

SI 5 Opening

Sen. Tester
medicaid to cover
long term care + perscript drugs

7.9

Proponents

IRVAN Hutchinson - wrote the bill
Gov. Advisory Council

LEGISLATIVE TAPE LOG

COMMITTEE:

HOUSE HUMAN SERVICES

DATE:

March 10, 1999

MINUTES

CONTENT NOTES

17.7Al V. Thomas - AARP19.4Kelly Hubbard - MT Senior Citizens Assoc.20.0Jim Smith - MT St. Pharmaceutical Assoc.Questions21.4Rep. Davis → Rep. Simon
- why cost less in Mexico & Canada
- income less less ...23.2Rep. Simon → Sen. Tester
add sentence & whereas
to simplify lang. to get drugs approved
↳ Sen. wants to stay focused on
Senior citizens.29.4Irvin Hutchinson → comment - no prob.
w/ adding a whereas30.6CLOSING SI 5Sen. TesterTape 1: B 0.1Opening SB 364SD: 15Sen. Eckstandardized application
under medicare & related probs.
(for children)4.0ProponentsSteve Yeckel → ex. Dir - health

LEGISLATIVE TAPE LOG

COMMITTEE:

HOUSE HUMAN SERVICES

DATE:

March 10, 1999

MINUTES

CONTENT NOTES

5.1

Nick
Vick? Paulson - Ass. dir.
healthy mothers
healthy babies
mentioned

6.9

6.7 → Rep Smith - mt primary care assoc.
Supports

10.8

Hank Hudson - Admin - Health + Human Services
Div. w HH...
Support reduced appl. form

11.4

Todd Tane - mt nurse assoc.

13.8

Quest

Rep Molnar - Mr. Hudson
↳ how will they make apps. easier

15.4

Rep. Squires → Hank Hudson
~ medicare cards need to
chang

17.0

Squires → Mary Dalton - medicare services
(an) simplification Bureau Chief

19.4

Closing SB364 * - chip coordinator

20.2

Sen. Eck
Exec. SB 364

Rep. Lenhart - Do concurr
question →

LEGISLATIVE TAPE LOG

COMMITTEE:

HOUSE HUMAN SERVICES

DATE:

March 10, 1999

MINUTES

CONTENT NOTES

21.2

SI 5 exec.

21.4

Rep. Simon - Do concur

Rep. Simon - amend

21.9

Mr. NISS → gives lang.

23.2

- Rep. Williams - give

* quest. amend (C) 15-0
quest. Do concur (C) 15-0

24.9

Exec. SB 124 (Beck)

Rep. Lenhart - Do Concur

amends from (Anita Rossmann)
ok'd by Beck.

26.1

Mr. NISS

Explained amends (Exhibit 1)
to change lang on admission

29.3

Rep. Schokley - no - pass amend
→ (C) 15-0

29.8

Rep. Anner - Do concur 124
as amend
(C) 15-0

adjourn - 4:30

Schokley - motion



AN ACT GENERALLY REVISING LAWS RELATING TO MENTAL HEALTH; DELETING THE REQUIREMENT FOR DEPARTMENT APPROVAL OF VOLUNTARY ADMISSION FORMS; SPECIFYING THE CONTENT OF VOLUNTARY ADMISSION FORMS AND SPECIFYING THE REQUIREMENTS FOR A VALID VOLUNTARY ADMISSION; PROVIDING TRANSFER PROVISIONS FOR A PERSON IN THE CUSTODY OF THE DEPARTMENT OF CORRECTIONS; AMENDING TIME PROVISIONS RELATED TO NONRESIDENT COMMITMENT; CLARIFYING THE CRITERIA FOR DIVERSION FROM A DETENTION CENTER OF CERTAIN PERSONS SUFFERING FROM A MENTAL DISORDER; REQUIRING A STATEMENT OF FINANCIAL RESOURCES NEEDED FOR DISCHARGE PLANNING; AMENDING THE FUNCTION OF THE MONTANA STATE HOSPITAL; AMENDING SECTIONS 53-21-111, 53-21-130, 53-21-134, 53-21-138, 53-21-180, AND 53-21-601, MCA; REPEALING SECTION 53-21-188, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 53-21-111, MCA, is amended to read:

"53-21-111. Voluntary admission -- content of admission form -- requirements for valid admission.

(1) (a) ~~Nothing in this~~ This part may not be construed to limit the right of ~~any~~ a person to make voluntary application for admission at any time to ~~any~~ a mental health facility or professional person.

(b) An application for admission to a mental health facility must be in writing on a form prescribed by the facility ~~and approved by the department. An application is not valid unless it is approved by a professional person and a copy is given to the person being voluntarily admitted. The form must explain:~~

(i) the process for requesting release and that the request must be in writing;

(ii) that the individual applying for release may be held involuntarily for up to 5 days after requesting release; and

(iii) that the facility may request a court to involuntarily commit the applicant.

(c) A statement of the rights of the person voluntarily applying for admission, as set out in this

part, ~~including the right to release,~~ must be furnished to the patient within 12 hours.

(2) ~~Any~~ An applicant who wishes to voluntarily apply for admission to the state hospital shall first obtain certification from a professional person that the applicant is suffering from a mental disorder. The professional person shall then obtain confirmation from the department or the department's designee that the facilities available to the mental health region in which the applicant resides are unable to provide adequate evaluation and treatment. The department shall adopt rules to establish a procedure whereby a professional person shall obtain the confirmation from the department or the department's designee as required in this section.

(3) An application for voluntary admission must give the facility the right to detain the applicant for no more than 5 days, excluding weekends and holidays, past the applicant's written request for release. A mental health facility may adopt rules providing for detention of the applicant for less than 5 days. The facility shall notify all applicants of the rules and post the rules as provided in 53-21-168.

(4) An individual applying for voluntary admission pursuant to this section may not be admitted unless:

- (a) the admission is approved by a professional person;
- (b) the individual applying for admission has been informed orally of the matters required by subsection (1)(b) to be stated in the written application for admission;
- (c) a copy of the written application for admission has been given to the applicant; and
- (d) the admission otherwise complies with the requirements of this section.

~~(4)~~(5) ~~Any~~ A person voluntarily entering or remaining in ~~any~~ a mental health facility shall enjoy all the rights secured to a person involuntarily committed to the facility."

Section 2. Section 53-21-130, MCA, is amended to read:

"53-21-130. Transfer or commitment to mental health facility from other institutions. (1) No A person who is in the custody of the department for any purpose other than treatment of severe mental illness may not be transferred or committed to a mental health facility for more than 10 days unless the transfer or commitment is effected according to the procedures set out in this part. However, proceedings for involuntary commitment may be commenced in the county of the mental health facility where the person is, in the county of the institution from which the person was transferred to the mental health

facility, or in the county of the person's residence. Notice of a transfer ~~shall~~ must be given immediately to ~~any~~ the assigned counsel at the mental health facility and to the parents of minors, guardians, friends of respondent, or conservators, ~~as the case may be.~~

(2) A person who is in the custody of the department of corrections may be transferred for placement in a mental health facility for a period of up to 10 days, subject to the approval of the mental health facility. A placement in excess of 10 days must be performed according to the procedures for voluntary admission or involuntary commitment as provided in this part. Proceedings for involuntary commitment may be commenced in the county of the mental health facility where the person is placed or in the county of the correctional facility from which the person was transferred. Notice of a transfer must be given to the legal counsel for the person and to the parents of minors, guardians, friends of respondent, or conservators."

Section 3. Section 53-21-134, MCA, is amended to read:

"53-21-134. Receipt of nonresident person suffering from a mental disorder pending return to home state. A person who is suffering from a mental disorder and in need of commitment and who is not a resident of this state may be received into committed to the state hospital for a period not to exceed 30 days pending return to the state of the person's residence pursuant to this part. The state hospital shall make every effort to return the nonresident to the state of the person's residence as provided in chapter 22, part 1, of this title."

Section 4. Section 53-21-138, MCA, is amended to read:

"53-21-138. Diversion of certain persons suffering from mental disorders from jail detention center. (1) The sheriff or administrator of a jail detention center in each county shall require screening of inmates to identify persons accused of minor misdemeanor offenses who appear to be suffering from mental disorders and who may require commitment, as defined in 53-21-102.

(2) If as a result of screening and observation it is believed that an inmate is suffering from a mental disorder and may requires require commitment, the sheriff or administrator of the jail detention center shall:

(a) request services from a crisis intervention program established by the department, as provided

for in 53-21-139;

(b) refer the inmate to the nearest community mental health center, as defined in 53-21-201; or

(c) transfer the inmate to a private mental health facility or hospital equipped to provide treatment and care of persons who are suffering from a mental disorder and who require commitment.

(3) As used in this section, the term "minor misdemeanor offense" includes but is not limited to a nonserious misdemeanor, such as criminal trespass to property, loitering, vagrancy, disorderly conduct, and disturbing the public peace.

(4) A person intoxicated by drugs or alcohol who is accused of a minor misdemeanor offense may be detained in a jail until the level of intoxication is reduced to the point that screening for a mental disorder and the need for commitment can be performed."

Section 5. Section 53-21-180, MCA, is amended to read:

"**53-21-180. Discharge plan.** Each patient admitted as an inpatient to a mental health facility must have an individualized discharge plan developed within 10 days after admission. The discharge plan must be updated as necessary. Each individualized discharge plan must contain:

- (1) an anticipated discharge date;
- (2) criteria for discharge;
- (3) identification of the facility staff member responsible for discharge planning;
- (4) identification of the community-based agency or individual ~~that~~ who is assisting in arranging postdischarge services; ~~and~~
- (5) referrals for financial assistance needed by the patient upon discharge; and
- (6) other information necessary to ensure an appropriate discharge and adequate postdischarge services."

Section 6. Section 53-21-601, MCA, is amended to read:

"**53-21-601. Location and primary function of hospital.** (1) The facility providing mental health care services at Warm Springs, Montana, is the Montana state hospital and as its primary function provides care and treatment of mentally ill persons.

(2) (a) The Montana state hospital is a mental health facility, as defined in 53-21-102, of the

department of public health and human services for the care and treatment of mentally ill persons.

(b) The role of ~~the Warm Springs facility~~ Montana state hospital is to provide intensive inpatient psychiatric services, including those services necessary for transition to community care, as ~~one component~~ components in a comprehensive continuum of publicly and privately provided programs that emphasize treatment in the least restrictive environment.

(c) The mission of ~~the Warm Springs facility~~ Montana state hospital is to stabilize persons with severe mental illness and to return them to the community as soon as possible if adequate community-based support services are available.

(3) The department shall adopt rules to manage the state hospital patient population in a manner that will ensure emergency access to services, protect public and individual safety, provide active treatment, implement effective discharge planning, and ensure access to appropriate community-based services."

Section 7. Repealer. Section 53-21-188, MCA, is repealed.

Section 8. Effective date. [This act] is effective on passage and approval.

- END -